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Crl.MP.No.17427 of 2023
in Crl.A.No.1275 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.17427 of 2023

in

Crl.A.No.1275 of 2022

Karuppusamy

... Petitioner/Appellant

Versus

State Rep.by
Inspector of Police,
Palladam Police Station,
Tiruppur District.
Crime No.1176 of 2012

...Respondent/Respondent

Prayer:- Civil Miscellaneous Petition filed under Section 389 [1] of Cr.P.C., to suspend the sentence imposed in S.C.No.137 of 2015 dated 14.10.2022 on the file of the learned Sessions Judge Magalir Neethimandram, (Fast Track Court) Tiruppur and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.M.N.Balakrishnan



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For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor
Assisted by
Mr.C.Aravind

ORDER

[Order of the Court was made by SUNDER MOHAN, J]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner/sole accused by Judgment and order dated 14.10.2022 passed in SC No.137 of 2015 on the file of the learned Sessions Judge, Magalir Neethimandram, (Fast Track Mahila Court) Tiruppur, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner/sole accused in the above Sessions Case, was convicted and sentenced as follows:

Offence under Section	Sentence imposed
498 (A) of the IPC	To undergo rigorous imprisonment for three years and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for three months.
302 of the IPC	To undergo rigorous imprisonment for life and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for three months.
Sentences were ordered to run concurrently.	



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3. Challenging the above conviction and sentence, the petitioner/sole accused has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present petition.

4. Heard M.N.Balakrishnan, learned counsel for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the respondent/State.

5.It is the case of the prosecution that the petitioner had committed cruelty on the deceased/wife of the petitioner, on account of dowry demand; that on 02.11.2012, P.W.1/complainant/mother of the deceased received a phone call from the deceased stating that the petitioner was demanding dowry to meet his father's medical expenses; that on 03.11.2012, P.W.1 received a phone call from the petitioner that her daughter died due to a electric shock. Initially the case was registered under Section 174 of Cr.P.C (Suspicious Death) and subsequently altered to Sections 498 (A) and 302 and 201 of the IPC.



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6. Mr.M.N.Balakrishnan, the learned counsel for the petitioner submitted that all the witnesses turned hostile including the complainant/P.W.1 and the other relatives of the deceased; that P.W.2/elder sister of the deceased who supported the prosecution is a hearsay evidence and except for the extra judicial confession said to have been given to the Village Administrative Officer (not examined), and was proved through P.W.8/the Village Assistant, there is no other evidence to show that the deceased died due to homicidal violence and the petitioner was a cause for it and hence, he prayed for suspension for sentence for the petitioner.

7. Mr.E.Raj Thilak, the learned Additional Public Prosecutor, *per contra*, submitted that though the petitioner had informed P.W.1 that the deceased died due to a electric shock, the medical evidence is to the contrary and states that the deceased died due to burn injuries; that the false reason given by the petitioner to the witnesses coupled with the extra judicial confession confirms the petitioner's involvement in the offence and hence he submitted that this petition deserves to be dismissed.



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8. We have carefully considered the rival submissions and perused the record.

9. We find that the complainant/P.W.1 and the other relatives of the deceased have turned hostile. P.W.2/the elder sister of the deceased supported the prosecution case. However, her evidence is based on what P.W.1 told her. As P.W.1 turned hostile, P.W.2's evidence is hearsay and pales into insignificance. The only other evidence is the extra judicial confession which is a weak piece of evidence and uncorroborated. Therefore, we are of the view that the petitioner has a fair chance of success in the appeal. We would however add that the above observations are only an expression of our prima facie view.

10. Considering the above and the fact that the petitioner is in custody from 14.10.2022, and the appeal is not likely to be taken up in the near future, we are inclined to grant the relief of suspension of sentence to the petitioner herein.



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11. Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended and the sentence imposed on the petitioner is suspended on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two independent sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Magalir Neethimandram (Fast Track Court), Tiruppur;

(ii)The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and

(iii)The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before



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the trial Court on any other day in lieu of the date of
his absence, as directed by the trial Court.

[M.S.R.,J.] [S.M.,J.]
04.03.2024

dk

Speaking/Non-Speaking order

Neutral Citation: Yes/No

Issue order copy by 05.03.2024

Upload the order forthwith.

Copy to:-

- 1.The Sessions Judge Magalir Neethimandram,
(Fast Track Court) Tiruppur.
- 2.The Inspector of Police
Palladam Police Station,
Tiruppur District.
- 3.The Superintendent of Prisons,
Central Prison, Coimbatore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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